

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL
INDUSTRY AVERAGE
WHOLESALE PRICE LITIGATION

THIS DOCUMENT RELATES TO:
*United States ex rel. Linnette Sun and
Greg Hamilton, Relators*
v.
Baxter Healthcare Corporation

Case No. 08-CV-11200-PBS

*United States of America ex rel.
Ven-A-Care of the Florida Keys, Inc. v.
Baxter Healthcare Corporation and
Baxter International, Inc.*

Case No. 10-CV-11186-PBS

MDL No. 1456

Master File No. 1:01-CV-12257-PBS

Sub-Category Case Nos. 1:08-CV-11200-PBS
& 1:10-CV-11186-PBS

Judge Patti B. Saris

**SUN/HAMILTON'S CONDITIONAL EMERGENCY
MOTION TO CONTINUE EVIDENTIARY HEARING**

Plaintiffs-Relators Linnette Sun and Greg Hamilton ("Sun/Hamilton"), by their undersigned counsel, hereby move to continue the evidentiary hearing currently scheduled for March 18-19, 2013, in the event this Court denies All Parties' Joint Motion for a Briefing Schedule in Lieu of Evidentiary Hearing, filed on March 12, 2013 (Dkt No. 211). In support of this Motion, Sun/Hamilton state as follows.

1. An evidentiary hearing in the above-captioned cases is currently scheduled for March 18-19, 2013 for the sole purpose of determining whether the

Sun/Hamilton Relators were first-to-file claims against Baxter Healthcare Corporation ("Baxter") for pricing fraud on Baxter's Advate product.

2. On March 12, 2013, all parties to the evidentiary hearing filed All Parties' Joint Motion for a Briefing Schedule in Lieu of Evidentiary Hearing. Sun/Hamilton anticipated that if that motion were to be denied, they would then present the live testimony of Mr. Hamilton at the evidentiary hearing on March 18-19, 2013 (Ms. Sun passed away on December 24, 2013) (*see* All Parties' Joint Motion for a Briefing Schedule in Lieu of Evidentiary Hearing, fn.1, p. 2).

3. Counsel for Sun/Hamilton learned this morning, March 14, 2013, that Mr. Hamilton underwent a medical procedure on Wednesday, March 13, 2013, which involved him receiving an epidural and steroid shots to address two herniated disks and an acute tear. Mr. Hamilton is now heavily medicated, and his appearance at the evidentiary hearing on Monday, March 18, 2013, is not feasible. Although counsel for Mr. Hamilton knew previously of his back issues, until today, March 14, 2013, counsel had been assured that Mr. Hamilton would be available for the evidentiary hearing on March 18. That is no longer the case.

4. Therefore, if this Court denies All Parties' Joint Motion for a Briefing Schedule in Lieu of Evidentiary Hearing and orders the parties to go forward with the evidentiary hearing, Sun/Hamilton request that the evidentiary hearing be continued to some date after March 31, 2013.

WHEREFORE, Plaintiffs-Relators Linnette Sun and Greg Hamilton request that this Court continue the March 18-19, 2013 evidentiary hearing to some date after March 31, 2013.

Dated: March 14, 2013

Respectfully submitted,

LINNETTE SUN and GREG HAMILTON

By /s/ David J. Chizewer
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CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that on March 14, 2013, he caused a true and correct copy of the foregoing **SUN/HAMILTON'S CONDITIONAL EMERGENCY MOTION TO CONTINUE EVIDENTIARY HEARING** to be served via electronic mail, as a courtesy, and/or as indicated below, upon the following counsel of record:

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